



ORDER NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

JOHN CHUN SUH,

Debtor.

Case No. 2:11-bk-35816-RK

Chapter 7

**ORDER ON DEBTOR'S MOTION TO
REOPEN CHAPTER 7 BANKRUPTCY
CASE FOR VIOLATION OF DISCHARGE
ORDER AND FOR SANCTIONS**

Date: March 8, 2016

Time: 2:30 p.m.

Place: Courtroom 1675
Roybal Federal Building
255 East Temple Street
Los Angeles, CA 90012

Pending before the court is Debtor John Chun Suh's ("Debtor") "Motion to Reopen Chapter 7 Bankruptcy Case for Violation of Discharge Order and for Sanctions" ("Motion"). ECF 24. The Motion is set for hearing on March 8, 2016, at 2:30 p.m. Creditor Benjamin Park ("Creditor") filed an opposition ("Opposition") to the Motion. ECF 27. Debtor filed a reply ("Reply") thereto. ECF 28.

The court, having reviewed the Motion, Creditor's Opposition to the Motion and Debtor's Reply to the Opposition, the declarations and exhibits attached therein, and the record, determines that pursuant to Local Bankruptcy Rules 5010-1(e) and 9013-1(q), a

1 hearing on the Motion is not required, nor necessary, takes the Motion under submission,
2 vacates the March 8, 2016 hearing on the Motion as improvidently noticed by Debtor, and
3 rules as follows.

4 1. The court determines that the Motion should be granted for “other cause” under
5 11 U.S.C. § 350(b) for the reasons stated in the moving papers, that is, for the limited
6 purpose of allowing Debtor to enforce the discharge injunction against Creditor and to
7 seek sanctions against Creditor for violation of the discharge injunction as he may be
8 entitled to such relief under the Bankruptcy Code. However, the court makes no
9 determination of the merits of any such claims at this time since that would not be
10 appropriate on a motion to reopen a bankruptcy case.

11 2. Debtor’s Opposition to the Motion goes to the merits of Debtor’s claims.
12 Accordingly, it should be overruled at this time, but without prejudice. “Reopening a
13 case, by itself, determines nothing with respect to the merits of the case.” 4 March, Ahart
14 and Shapiro, *California Practice Guide: Bankruptcy*, ¶ 23:151 at 23-19 (2015), *citing*,
15 *inter alia*, *In re Menk*, 241 BR 896, 913 (9th Cir. BAP 1999) (“[T]he reopening of a closed
16 bankruptcy case is a ministerial act that functions primarily to enable the file to be
17 managed by the clerk as an active matter and that, by itself, lacks independent legal
18 significance and determines nothing with respect to the merits of the case.”).

19 3. The Motion is granted and the bankruptcy case is ordered reopened for the
20 purpose described herein.

21 4. Debtor is granted 60 days from the date of entry of this order to seek relief by
22 filing a motion to enforce the discharge injunction against Creditor and seek sanctions for
23 violation of the discharge injunction through contempt proceedings pursuant to Local
24 Bankruptcy Rule 9020-1. *See also*, *Barrientos v. Wells Fargo Bank*, 633 F.3d 1186 (9th
25 Cir. 2011). If this motion is not filed by the 60-day deadline, the case is ordered re-
26 closed.

27 5. The hearing on the Motion set for March 8, 2016, at 2:30 p.m. is vacated and
28 taken off calendar. No appearances are required at the March 8, 2016 hearing.

1 6. Although the court grants the Motion, the court observes that Debtor acted
2 contrary to Local Bankruptcy Rule 5010-1(e) by calendaring a hearing date for the Motion
3 without prior court authorization, which expressly provides that, "A motion to reopen may
4 be ruled on without a hearing pursuant to LBR 9013-1(q). The movant must not calendar
5 a hearing date nor will a hearing be held on the motion, unless otherwise ordered by the
6 court." Accordingly, pursuant to Local Bankruptcy Rule 9011-3(a), for his failure to
7 conform to Local Bankruptcy Rule 9013-1(q), Counsel for Debtor, Jaenam J. Coe, of the
8 Law Offices of Jaenam Coe PC, is now ordered to read Local Bankruptcy Rule 5010-1
9 and file a declaration with the court stating that he has done so within 30 days of entry of
10 this order. Failure to timely file this declaration with the court may result in the imposition
11 of monetary sanctions against Mr. Coe in the amount of \$100.00. Mr. Coe may request
12 reconsideration of these sanctions within 14 days of the entry of this order by filing a
13 request for hearing on 21 days notice on the court's regular law and motion calendar on
14 Tuesdays at 2:30 p.m.

15 IT IS SO ORDERED.

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23 Date: March 4, 2016



Robert Kwan
United States Bankruptcy Judge